

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KEITH NIEMIC,

Plaintiff,

v.

MASSACHUSETTS DEPARTMENT OF
CORRECTION, et al.,

Defendants.

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Civil Action No. 13-11402-JLT

ORDER

February 19, 2014

TAURO, J.

After reviewing the Parties' written submissions, this court hereby orders:

1. Plaintiff's Motion for Class Action Certification [#12] is DENIED. Plaintiff has not met the heavy burden of Federal Rule 23. Further, Plaintiff, who is pro se, may not appear for others in federal court.¹
2. Plaintiff's Motion for Appointment of Counsel or Law Student for Trial and/or for Class Action Suit [#13], Supplemental Motion for Appointment of Counsel [#100], and Motion for Appointment of Counsel or Law Student for Depositions and Trial [#106] are all DENIED.
3. This court ACCEPTS and ADOPTS the January 29, 2014 Report and Recommendation [#108] of Magistrate Judge Collings. For the reasons set forth in the Report and Recommendation, this court hereby orders that Defendant UMass Correctional Health

¹ See, e.g., Herrera Venegas v. Sanchez-Rivera, 681 F.2d 41, 42 (1st Cir. 1982).

Services (“UMCH”)’s Motion to Dismiss [#37] is ALLOWED IN PART and DENIED WITHOUT PREJUDICE IN PART. It is ALLOWED as to all claims asserted under 42 U.S.C. § 1983 and DENIED WITHOUT PREJUDICE as to all remaining claims.

4. Plaintiff’s Emergency Request for Court Intervention [#101] is DENIED.

5. Defendants’ Motion to Enlarge Time to Response [sic] [#104] is ALLOWED.

Defendants shall file any motions to dismiss by February 28, 2014.

6. Plaintiff’s Motion for Leave to Take Audio Depositions of the Defendants [#105] is DENIED. It is clear from Defendants’ Opposition that Defendants have supplied Plaintiff with the documents and information he seeks. Audio depositions are unnecessary.

7. Plaintiff’s Motion for Physical Examination [#107] is DENIED.

8. Plaintiff’s Motion for an Extension of Time for Responding to This Court’s 1-21-14 Order [#110] is DENIED. Plaintiff must file his oppositions, if any, to Defendants’ motions [#69, 84, 86, 90] by February 28, 2014, as Magistrate Judge Collings ordered on January 21, 2014. Magistrate Judge Collings generously gave Plaintiff more than a month to file these oppositions, which is longer than the time contemplated by the Federal Rules of Civil Procedure. Further, Plaintiff has not offered a good reason for an extension, and, given his multiple filings in this matter since January 21, he clearly has sufficient time to draft briefs for this case.

9. Plaintiff’s Motion for Leave to Order the DOC Defendants to Refrain from Confiscating Portions of Plaintiff’s Outgoing Legal Mail [#111] is DENIED. It is not this court’s role to “investigate,” as Plaintiff requests.

IT IS SO ORDERED.

/s/ Joseph L. Tauro
United States District Judge